

FOREIGN RELATIONS ACT

P.L. 95-105

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FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1978

P.L. 95-105, see page 91 Stat. 844

House Report (International Relations Committee) No. 95-231,
Apr. 29, 1977 [To accompany H.R. 6689]

Senate Report (Foreign Relations Committee) No. 95-194,
May 16, 1977 [To accompany H.R. 6689]

House Conference Report No. 95-537, July 26, 1977
[To accompany H.R. 6689]

Cong. Record Vol. 123 (1977)

DATES OF CONSIDERATION AND PASSAGE

House May 4, August 3, 1977

Senate June 16, July 28, 1977

The Senate Report and the House Conference Report
are set out.

SENATE REPORT NO. 95-194

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The Committee on Foreign Relations, to which was referred the bill (H.R. 6689) to authorize fiscal year 1978 appropriations for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting, to make certain changes in the Foreign Service personnel system, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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AUTHORIZATION OF APPROPRIATIONS

The primary purpose of the bill is to authorize fiscal year 1978 appropriations for the operations of the State Department (including the Office of Foreign Buildings), the U.S. Information Agency, and the Board for International Broadcasting (which makes grants to Radio Free Europe/Radio Liberty). The fiscal year 1978 authorizations approved by the Committee are shown in the following table, to-

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agreed that Congress as a whole ought to be prepared to affirm the value of such meetings and to participate in them actively and without apology.

Sec. 458. Foreign Gifts and Decorations

The purpose of this section, which was initiated by Senator Biden, is to strengthen the provisions of the Foreign Gifts and Decorations Act of 1966.

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The U.S. Constitution does not prohibit the acceptance of gifts and decorations under all circumstances but does require that Congress consent to their acceptance. In the Act of 1966, Congress consented to U.S. Government employees retaining foreign gifts of minimal value and also decorations for outstanding and meritorious service. Concerning a gift of more than minimal value, however, the Act made acceptance permissible only if refusal would likely cause embarrassment or adversely affect the foreign relations of the United States. Such gifts, according to the Act, are to be considered the property of the United States and to be used or disposed of according to regulations issued by the President.

In 1974 the Foreign Relations Committee requested the General Accounting Office to review the administration of the 1966 Act, and after a year-long study the GAO issued a report pointing out a number of deficiencies in the Act and its implementing regulations:

- “Records GAO has examined indicate that some Government officials may have received gifts which, up to the present, have not been reported to the Chief of Protocol. GAO was unable to ascertain whether these were isolated instances or representative of a more general problem of a lack of reporting.
- “The reporting system under the Act relies heavily on voluntary compliance by the recipient. Neither the Act nor its regulations requires that gifts be reported within a specific time, nor is there an effective penalty for noncompliance.
- “Individuals receiving gifts often are in the higher civil service grades or hold elective or high appointive positions. GAO noted a reluctance on the part of the Office of Protocol to approach such individuals concerning requirements of the Act.
- “Regulations do not explain that the Act applies to gifts given by officials of any foreign governmental subdivision, not solely national governments.
- “Regulations fail to explain that all gifts, whether given as a personal or state gift, are under the provisions of the law.
- “Neither the regulations nor the Act state whether or not gifts from foreign quasi-government organizations or multinational organizations need to be reported.
- “Neither the Act nor its regulations requires an independent appraisal of the gifts. The burden of determining a gift's worth—‘minimal value’ defined as \$50 or less—rests with the recipient.
- “Once a gift is reported to the Chief of Protocol, he may permit its use for official purposes or declare it excess personal property and transfer it to the General Services Administration for disposition. The Chief of Protocol was unable to locate all gifts, indicative of inadequate control.
- “The Act does not apply to experts and consultants hired by the Government.”

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The GAO concluded that the Act should be strengthened and submitted to the Foreign Relations Committee draft legislation which provided the basis for this section. In amending the 1966 Act, this section provides as follows:

—that gifts of more than minimal value must be reported by the recipient to his employing agency and deposited with the U.S. Government within 60 days of receipt;

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- for penalties for failure to report and deposit such gifts (up to \$1,000 fine or one year in jail) ;
- for coverage of per diem experts and consultants;
- for the application of the Act to foreign quasi-governmental and multilateral organizations;
- for independent appraisal of gifts and for their disposal by (a) return to giver, or, (b) donation, transfer, or sale in accordance with existing law (including negotiated sale, perhaps to the original recipient) ;
- for the acceptance of intangible gifts from foreign governments (travel, housing, etc.) of more than minimal value when the benefit accrues to the United States Government;
- for the acceptance of decorations or awards for meritorious performance, subject to the approval of the employing agency;
- for a change in the definition of minimal value to \$100 to reflect inflation (the current law is silent but present regulations set minimal value at \$50) ;
- for an annual publication in the Federal Register of all gifts registered to the various branches of Government;
- that no gifts of more than minimal value shall be given by the U.S. Government using appropriated funds unless specifically authorized by Congress or unless purchased from a specified State Department account;
- that all such gifts of more than minimal value purchased using appropriated funds, and also any gifts which did not involve the use of appropriated funds, shall be annually reported to the Senate Foreign Relations Committee and the House International Relations Committee; and
- for the Secretary of State, through U.S. embassies, to inform foreign governments "that it is the general policy of the U.S. Government to prohibit U.S. Government employees from receiving foreign gifts or decorations of more than minimal value."

In approving these new and more stringent rules and procedures governing the giving and receiving of gifts, the Committee emphasized several points:

(1) Gifts of more than minimal value which have been deposited with the various "employing agencies" should where possible be officially used or displayed, and the sale of such gifts should in most cases be the last recourse. If a gift is to be displayed, priority should be given to display by governmental agencies, including state and local, and also by municipal museums.

(2) For gifts forwarded to the General Services Administration for disposal, procedures should insure an evaluation at fair market value and not below.

(3) The Committee strongly disapproves of an officer or employee of the U.S. Government giving to any foreign recipient any gift which

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has been provided by a private U.S. citizen or business firm. Through the annual report required by this section, the Committee intends to determine the extent and nature of this practice, and to take corrective action as appears necessary.

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Sec. 459. Strengthening Information, Cultural, and Radio Activities

The purpose of this section, which was initiated by Senator Percy, is to establish certain broad principles which should govern a reorganization of the State Department and USIA in the area of information and cultural activities, and to require the President to prepare and submit to Congress by October 31 of this year a reorganization plan taking into account the findings of recent studies on this subject.

The section draws a distinction between two foreign policy functions: (1) "policy articulation," which is the explanation and defense of U.S. foreign policy in this country and abroad; and (2) "cultural activities," which involve a variety of programs and activities designed to foster understanding of the United States on a more general, long-term basis. Both functions are now being performed in both State and USIA.

The underlying premise of the section is that the two functions are best performed separately, and that this can be brought about through a reorganization which places all "policy articulation" responsibilities in the State Department and responsibility for the administration of "cultural activities"—such as the exchange-of-persons program, libraries, information centers, exhibitions, magazines, and motion pictures and television activities—in a new agency based upon what is now USIA.

In addition, the section states that radio broadcasting by the Voice of America is actually a combination of three functions: the transmission of objective, reliable news and also the two functions cited above—policy articulation and the promulgation of general information about American society in its diversity and as a whole. The section states that these potentially (and sometimes actually) conflicting functions can best be reconciled—and the stature and credibility of VOA enhanced—if the Voice of America has a clear mandate to broadcast accurate, objective, and comprehensive news, to represent American society in its totality, and to provide such air time as is necessary for the articulation by executive branch spokesmen of official United States policy. The section also calls for a strengthening of VOA broadcasting, in terms of both transmitter power and number of languages broadcast.

The overall approach to State-USIA reorganization set forth in this section is consistent with—but less specific in detail than—the conclusions drawn by the "Stanton" Panel on International Information, Education, and Cultural Relations (a privately-funded study), and the "Murphy" Commission on the Organization of the Government for the Conduct of Foreign Policy (which was a Government-funded study mandated by the Congress). The Committee intends—and this section instructs—that in the preparation of the Administration's plan, consideration be given to the reports of both groups and also to the reports, completed and published just this month, of the General Accounting Office and the U.S. Advisory Commission on Information.

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8. Estimate prepared by: Joseph C. Whitehall.

9. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

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JOINT EXPLANATORY STATEMENT OF THE COMMITTEE
OF CONFERENCE

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UNITED STATES-EUROPEAN COMMUNITY INTERPARLIAMENTARY GROUP

The Senate amendment established a statutory base for a United States-European Community Interparliamentary Group. The language of the Senate provision was similar to the existing statutes providing for the North Atlantic Assembly, the Inter-Parliamentary Union, and the Mexico-United States and Canada-United States Groups. The Senate provision set an annual ceiling of \$50,000 subject to the annual authorization/appropriation process, to meet the expenses of the group.

The House bill did not contain a comparable provision.

The conference substitute deletes the Senate provision.

The committee of conference recognizes that the group under the present format has been an extremely useful instrument for interested Members of Congress to exchange views and information with the members of the European Parliament. The committee of conference urges the appropriate committees to provide adequate funding in order to support the continued participation of Members of Congress in this activity.

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FOREIGN GIFTS AND DECORATIONS

The Senate provision contained a comprehensive amendment to the 1966 Foreign Gifts and Decorations Act, providing:

- that gifts of more than minimal value must be reported by the recipient to his employing agency and deposited with the U.S. Government within 60 days of receipt;
- for penalties for failure to report and deposit such gifts;
- for a change in the definition of minimal value to \$100 to reflect inflation (the current law is silent but present regulations set minimal value at \$50);
- for coverage of per diem experts and consultants;
- for the application of the act to foreign quasi-governmental and multilateral organizations;
- for the disposal of gifts by (a) return to giver, or (b) donation, transfer, or sale on accordance with existing law (including negotiated sale, perhaps to the original recipient);
- for the acceptance from foreign governments of travel and travel expenses under certain circumstances;
- for the acceptance of decorations or awards for meritorious performance, subject to the approval of the employing agency;
- for an annual publication in the Federal Register of all gifts reported to the various branches of Government;
- that no gifts of more than minimal value shall be given by the U.S. Government using appropriate funds unless authorized by Congress or unless purchased from a specified State Department account;
- that all such gifts of more than minimal value purchased using appropriated funds, and also any gifts which did not involve the use of appropriated funds, shall be annually reported to the Senate Foreign Relations Committee and the House International Relations Committee; and

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—for the Secretary of State, through U.S. embassies, to inform foreign governments "that it is the general policy of the U.S. Government to prohibit U.S. Government employees from receiving foreign gifts or decorations of more than minimal value."

The House bill did not contain a comparable provision.

The conference substitute is essentially the same as the Senate provision with an amendment to make those portions of the substitute relating to gifts from foreign governments effective January 1, 1978, rather than upon enactment, in order to allow various government agencies time to promulgate implementing regulations.

With respect to gifts to foreign individuals, the substitute provision will become effective on October 1, 1977.

Regarding the restrictions on gifts of more than minimal value to foreign individuals, it is the intent of the committee of conference that the detailed description of the USIA book presentations program contained in that Agency's annual budget submission to the House International Relations Committee and the Senate Foreign Relations Committee shall be construed as having satisfied the requirement for congressional approval, unless the Congress indicates its disapproval.

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INTERNATIONAL BOUNDARY AND WATER COMMISSION

The Senate amendment amended two previous boundary and water acts to authorize, in addition to the amounts already authorized for operation and maintenance at the project involved, "plus or minus such amounts as may be justified" by reason of ordinary fluctuations in operation and maintenance costs * * *." In addition, it provided that the specific amount authorized by existing law for maintenance expenses are, in the case of the lower Rio Grande drainage conveyance canal project, to be "based on estimated calendar year 1976 costs" and, in the case of the lower Colorado River emergency flood control works, to be "based on December 1975 prices." The Senate amendment also changed the per diem rate for Boundary and Water Commission consultants and temporary employees from \$100 per day to the maximum daily rate of a GS-15.

The House bill did not contain a comparable provision.

The conference substitute is identical to the Senate provision.

PROHIBITION AGAINST CIVILIAN MILITARY OPERATIONS

The Senate amendment amended the Neutrality Act of 1939 by adding a section making it unlawful for any person within the United States who is not legally authorized to knowingly engage, directly or indirectly, in any military or paramilitary activity in or against any foreign state (or its aircraft or vessels) with which the United States is not at war or to engage, directly or indirectly, in the assault, kidnapping, or killing of any resident of such foreign state.

The House bill did not contain a comparable provision.

The conference substitute deletes the Senate provision because certain technical refinements were found to be necessary.